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6
IN THE UNITED STATES DISTRICT COURT
7
EASTERN DISTRICT OF CALIFORNIA
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9 HENRY GALVEZ RAMIREZ,

Petitioner,

11 v.

12 TONYA ANDREWS,

13 Respondents.
14

CASE NO. 1:26-CV-05195-TLN-JDP

**RESPONDENTS' RESPONSE TO PETITION
FOR WRIT OF HABEAS CORPUS**

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INTRODUCTION
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17 Petitioner is lawfully detained pending removal proceedings. An immigration judge denied
18 Petitioner's requests for custody redetermination based on danger. Petitioner did not seek appeal to the
19 Board of Immigration Appeals and so he did not exhaust his administrative remedies.

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FACTUAL BACKGROUND
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22 Petitioner is a native and citizen of Honduras who entered the United States without inspection
23 on an unknown date. Ex. 1. On or about March 6, 2026, the Department of Homeland Security (DHS),
24 Immigration and Customs Enforcement, Enforcement and Removal Operations (ERO) charged
25 Petitioner with inadmissibility under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). *Id.* On June
26 8, 2026, Petitioner had a custody redetermination hearing in the Miami Krome Immigration Court
27 pursuant to 8 U.S.C. § 1226(a) where the immigration judge denied bond based on danger. Ex. 2.
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Petitioner did not appeal that decision. On July 6, 2026, Petitioner filed the present petition.

LEGAL ARGUMENT

I. Petitioner's detention comports with the relevant statutes and the Constitution.

The process for detention of aliens is spelled out in statute and regulations. Under 8 U.S.C. § 1226(a), an alien may be detained while a decision on whether to remove him is pending. 8 U.S.C. § 1226(a). Once arrested, following a custody determination by DHS, an alien may request that an immigration judge hold a hearing to redetermine his custody. *See* 8 C.F.R. §§ 1003.19, 1236.1 (2026). The BIA has authority to hear appeals of immigration judge bond decisions. 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f).

Detention during removal proceedings remains constitutional for so long as it continues to “serve its purported immigration purpose.” *Demore v. Kim*, 538 U.S. 510, 527 (2003). Those purposes—ensuring an alien’s appearance for removal proceedings, preventing him from committing further offenses, and ensuring removal is effectuated if so ordered—are present throughout removal proceedings and do not abate over time while those proceedings are still pending. *Id.* at 527–28; *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022) (“These are interests of the highest order that only increase with the passage of time.”).

Here, Petitioner has been afforded the process he was due. This was Petitioner’s first encounter with immigration enforcement officials. ERO took him into custody, he requested review of that determination, and he was afforded that opportunity. The immigration judge heard the case and denied his request on the merits. Petitioner did not appeal that decision to the BIA.

Thus, Petitioner’s due process rights have not been violated.

II. Petitioner's administrative remedies are not exhausted.

“[Courts] require, as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1047

(9th Cir. 2001), abrogated on other grounds, *Fernandez-Vargas v. Gonzalez*, 548 U.S. 30 (2006). “Administrative exhaustion can be either statutorily required or judicially imposed as a matter of prudence.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (citing *Noriega-Lopez v. Ashcroft*, 335 F.3d 874 (9th Cir. 2003)). Although a court does have discretion to waive prudential exhaustion, “this discretion is not unfettered.” *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004) (citing *Castro Cortez*, 239 F.3d at 1047). In general terms, exhaustion may be waived “where administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* at 1000 (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685 (9th Cir. 1981)).

The U.S. Court of Appeals for the Ninth Circuit heard a very similar case to the present one. In *Leonardo v. Crawford*, the alien filed a petition for a writ of habeas corpus following an immigration judge’s denial of bond on the basis that he presented a danger. 646 F.3d 1157, 1159 (9th Cir. 2011). The district court dismissed the petition, however, because the alien had not appealed that decision to the BIA. The Ninth Circuit agreed that dismissal was the proper disposition of the petition because the alien had not exhausted his administrative remedies by making that appeal. *Id.* at 1160.

Just as in *Leonardo*, Petitioner here did not exhaust his administrative remedies: Petitioner was denied bond by an immigration judge and did not appeal that decision to the BIA. Thus, just as in *Leonardo*, dismissal is the proper result here.

CONCLUSION

For the reasons set forth above, Respondents respectfully request that the Court deny the Motion for a Temporary Restraining Order for a Writ of Habeas Corpus. Respondents do not request a hearing.

1 Dated: July 16, 2026

ERIC GRANT
United States Attorney

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3 By: /s/ Sean Davis
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